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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JOSEF HABER, an individual; **PATRICK GARRISON**, an individual; **JENNIFER NICKOLAUS**, an individual; **CHRIS WHALEY**, an individual; **JADE STURMS**, an individual; on behalf of themselves and all others similarly situated,

Civil No. 3:17-cv-1827 JR

PLAINTIFFS,

DECLARATION OF JEFFREY NIIYA

v.

(In Support of Defendants' Motion for Summary Judgment)

CITY OF PORTLAND, a municipal corporation;
MAYOR TED WHEELER, in his individual capacity; retired **PORTLAND POLICE CAPTAIN LARRY GRAHAM**, in his individual capacity; **PORTLAND POLICE OFFICER RYAN LEE**, in his individual capacity; **PORTLAND OFFICER CHRIS LINDSEY**, in his individual capacity; **PORTLAND POLICE OFFICER JEFFREY MCDANIEL**, in his individual capacity; and **PORTLAND POLICE OFFICER JOSEPH SANTOS**, in his individual capacity;

DEFENDANTS.

I, Jeffrey Niiya, declare as follows:

1. I am a lieutenant with the City of Portland's Bureau of Police. I was hired by the Portland Police Bureau ("PPB") in 1996. My initial and primary assignment with PPB was as a patrol officer in North precinct.

2. Beginning in 2010 I began working on a detached, specialty assignment with PPB's Rapid Response Team ("RRT"). RRT is PPB's primary specialty group that performs crowd management and crowd control services. As a member of RRT, one of my roles was to act as a liaison with different community and protest groups. As a liaison officer my role was to elicit and provide information so that community members could safely and legally exercise their rights to protected expression under the U.S. or State of Oregon Constitutions. I was RRT's primary liaison officer during the Occupy Portland movement in the fall of 2011.

3. I served with RRT until 2014, when I resigned from PPB to become the Operations Lieutenant for the Oregon Health Sciences University ("OHSU") police department. I returned to PPB and RRT in 2016.

4. In 2017 I became the Special Events Sergeant for PPB's Central Precinct in downtown Portland. As the Special Events Sergeant, my full-time role was to act as a liaison officer to facilitate the planning and management of special events in the downtown core, including parades, protests, demonstrations or other gatherings of groups of people.

5. As the Special Events Sergeant for PPB's Central Precinct, I was tasked to reach out to different groups expected to protest in downtown Portland on June 4, 2017. I had monitored other events and protests leading up to the planned June 4, 2017 Patriot Prayer Rally in Terry Schrunk Plaza, and I was concerned about the impact to public safety and the safety of those participating in the Rally and the safety of the expected counter-protestors. The protests in Lake Oswego, OR, Vancouver, WA and Berkeley, California had shown increasing violence between participants, including physical assaults, the use of weapons, and pepper spray. Law enforcement in these other jurisdictions was challenged in all of these protests to provide the level of public safety which many in the community wanted and expected.

6. Beginning in mid-May, I began contacting organizers of and persons affiliated with the Patriot Prayer Rally, including Joey Gibson, the principal organizer of the Patriot Prayer Rally. I explained my concerns to Mr. Gibson about having a rally in downtown Portland during the Rose Festival. Mr. Gibson explained that his group intended to march during the June 4 event. I discouraged any march because of the significant number of people expected downtown that day, including persons attending the City Fair at Waterfront Park as part of the City's Rose Festival celebrations. Mr. Gibson and I also discussed the federal government's rules regarding use of Terry Schrunk Plaza and the prohibition on guns in the Plaza. I explained I did not want people openly carrying firearms at the rally. He and I discussed an earlier Patriot Prayer event that had occurred on SE 82nd Avenue where a person associated with Patriot Prayer had assaulted another person. I admonished Mr. Gibson to control his attendees at the upcoming June 4 rally.

7. In addition to Mr. Gibson, in mid-May and through early June 2017, I spoke with other persons associated with the upcoming June 4 Patriot Prayer Rally, including persons who described themselves as "security" for the event. I emphasized to these persons that PPB did not want people bringing weapons or firearms to the event, that the Federal Protection Service ("FPS") would not allow them in the Plaza, and that the public would not be receptive to seeing open carried firearms. I explained to these persons the importance of being non-violent, and reminded them that the police were neutral and not aligned with any side.

8. Similarly, beginning in mid-May I began contacting persons associated with different groups of the expected "counter-protestors" to the Patriot Prayer group. One such person I contacted was Star Stauffer, who I knew from City Council sessions and other protests. I understand Ms. Stauffer was in contact with persons associated with anarchist, Black Bloc, (an anarchist group that commonly wears all black clothing and face coverings), and Antifa groups. I told Ms. Stauffer that I had concerns about the June 4th protests becoming violent, and asked her to advise her contacts among the "counter-protestors" to remain vocal only, and to stay separate

from the Patriot Prayer group on Terry Schrunk Plaza. I told Ms. Stauffer I was willing to speak to her contacts or to anyone with the goal of keeping the protests safe.

9. I also spoke with Jamie Partridge, one of the leaders of a group of “counter-protestors” expected to gather in front of City Hall on June 4. I have known Mr. Partridge since his involvement in the Occupy Portland protests in 2011. Mr. Partridge told me his group in front of City Hall would have peace keepers in orange vests, and that his group did not want masked Antifa as part of their protest. I explained to him that PPB’s wish was to keep all parties separated and to allow everyone to voice their free speech rights.

10. In the days leading up to June 4, I continued to prepare for the event by reviewing open source social media. The online back and forth between the Patriot Prayer group and Antifa was continuing. There had been and continued to be threats of violence between people. The demonizing of certain individuals, and the advocating of tactics against the police was increasing. I was very worried about the safety of all persons participating in the multiple protests as well as the police.

11. On June 4, 2017, I arrived at Central Precinct in the morning and began meeting persons associated with the Patriot Prayer group and the counter-protestors. I was concerned about members of Patriot Prayer openly carrying firearms at their rally, and was told by Lawrence Cavallero, the lead security person for the Patriot Prayer group, that none of his security people were carrying any weapons.

12. The Patriot Prayer Rally was set to start at 2:00 p.m., but people were arriving early. The counter-protestors, both those who were to gather in front of City Hall, and those who were gathering in Chapman Square, also began arriving early. Officers were intercepting people going into Chapman Square with shields and weapons. Confrontations began to occur between people in Chapman and Terry Schrunk Plaza, which required officers to separate the groups. I asked Mr. Cavallero to move people more to the interior of Terry Schrunk Plaza, away from the edges of the plaza, where they were antagonizing the counter-protestors. I was also

communicating with Ms. Stauffer about the use of slingshots from persons in Chapman Square, and later bricks and balloons filled with an unknown substance being thrown at police officers along SW Madison Street, separating the Chapman protestors from the Patriot Prayer protestors.


13. During the June 4, 2017 event I was exchanging text messages with Mimi German, another person associated with the Chapman Square protestors. At 12:57 p.m., I informed Ms. German that someone was shooting projectiles with a wrist rocket from inside the crowd at Chapman. At 1:00 p.m., I relayed that same message to Siobahn Burke, one of the organizers of the City Hall protest. At 1:15 p.m., Ms. Burke responded that they were "[s]eeing more black bloc heading onto 4th" and "One guy had stuff to throw." At 2:58 p.m., Ms. Burke texted me that she had heard that members of the Black Bloc were "talking about sh[u]tting stuff down."

14. I was present in the area of the portico of the Multnomah County Detention Center along SW Third Avenue when I heard the PPB sound truck announce that the southside of Chapman Square was closed. Prior to that announcement I had seen objects thrown from Chapman towards the police along SW Madison Street. Prior to that announcement I had also heard on the radio that objects were being thrown.

15. I make this declaration in support of Defendants' Motion for Summary Judgment.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED: August 13, 2020



 Jeffrey Niiya